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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

Beltran 01

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Barbara Adkins

Application Number

10/657,745

Filed

9/8/03

First Named Inventor

Beltran

Art Unit

3632

Examiner

Wood, Kimberley

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.

Registration number

33,534

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

/Timothy W Markison/ reg no 33,534

Signature

Timothy W Markison

Typed or printed name

808 665-1725

Telephone number

12/10/07

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.



*Total of 1 forms are submitted.

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**PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Beltran
Serial No: 10/657,745
Filing Date: 9/8/03
Title: APPARATUS FOR TRANSPORTING A CONTAINER

Examiner: Wood, Kimberly
Art Group: 3632
Docket No: BELTRAN 01

Date: 12/10/07

Pre-Appeal Brief Request for Review

1. In the Final Office Action dated 6/12/07, the Examiner reasserted the rejection of claims 1-9, 16-21, and 28-31. In particular, claims 1-9, 16-21, and 28-31 have been rejected under 35 USC § 102 (b) as being anticipated by Burrell (U.S. Patent No. 3,753,543). Applicant respectfully believes that there is a clear deficiency in the prima facie case in support of these rejections and requests review of the allowability of claims 1-9, 16-21, and 28-31.

2. Claims 1-9, 16-21, and 28-31 have been rejected under 35 USC § 102 (b) as being anticipated by Burrell. In support of this rejection, the Examiner stated that Burrell discloses a base (24) having a neck (25) and a stand (26), a retaining section comprising a first section (40), and a second section (42) and a tension mechanism/securing mechanism (46), a brace (10) with adjustable mechanical coupling (38).

Burrell teaches a bracket for gas containers 18. The gas container 18 includes a circular flange 19 welded to the bottom of the tank to function as a base. (column 2, lines 1-4) The gas container 18 further includes a protective collar 21 that is welded to the top of the gas container 18 surrounding the valve. (column 2, lines 6-9) The bracket includes an elongated rigid support plate 10 (column 1, lines 48-50), a yoke that comprises base 24 and a pair of arms 25, which are welded to a circular support ring 26 (column 2, lines 14-20), and a similar yoke having a base 34 and a pair of arms 35, which supports a support collar. The support collar includes a fixed semi-circular portion 40 welded to arms 35 and a semi-circular movable portion 42 secured to fixed portion 40 by a hinge 43. (column 2, lines 38-53)

Burrell teaches that the circular support ring 26 engages the bottom flange 19 of the container and may be tightened to hold the bottom of the container rigidly by clamping tightly around the bottom flange 19. (column 2, lines 20-21 and 30-33) The top collar 21 of the container is engaged by the fixed portion 40 of the support ring. Then the movable portion 42 of the support collar can be swung around into place and tightened until the top of the container is rigidly and securely held within the support collar. (column 3, lines 23-29).

As such, Burrell teaches a bracket that includes two similarly shaped supporting collars: one including circular supporting ring 26 and the other including fixed and movable semi-circular portions 40 and 42 attached to a support plate 10. The circular supporting ring 26 rigidly clamps onto the bottom of the container and the fixed and movable semi-circular portions rigidly clamps onto the top of the container.

In contrast, the apparatus of claim 1 includes a base having a first geometric shape in a first plane to support the container; a retaining section having a second geometric shape in a second plane to retain the container on the base and a brace mechanically coupling the base to the retaining section. The base of the present claim does not include means for rigidly securing the bottom of the container as is taught by Burrell. Further, the base of the present claim has a different geometric shape than that of the retaining section, whereas Burrell teaches that the supporting collars of similar shape, i.e., circular collars. As such, claim 1 is not anticipated by Burrell.

Claims 2-9 are dependent upon claim 1 and include additional patentable subject matter. The applicant contends that claims 2-9 overcome the present rejection for the same reasons that claim 1 overcomes the present rejection.

Claims 16 and 28 include similar limitations to that of claim 1. As such, the applicant contends that claims 16 and 28 overcome the same rejection for the same reasons.

Claims 17-21 are dependent upon claim 16 and include additional patentable subject matter. The applicant contends that claims 17-21 overcome the present rejection for the same reasons that claim 16 overcomes the present rejection.

Claims 29-31 are dependent upon claim 28 and include additional patentable subject matter. The applicant contends that claims 29-31 overcome the present rejection for the same reasons that claim 28 overcomes the present rejection.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF MAILING
37 C.F.R. 1.8

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